IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWELFTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 5493 of 2004

Between:

1 Union of India rep., by its Secretary, Department of Agricultural Research, New Delhi.
2 Central Tobacco Research Institute, rep., by its Director Rajahmundry.
3 Senior Administrative Officer, Central Tobacco Research Institute, Rajahmundry.

..... PETITIONER(S)

AND

Shaik Bazi, S/o. Shaik Nanne Saheb, Driver [terminated], Central Tobacco Research Institute Research Station, Guntur, R/o. A.T.Agraharam, 4th lane, Guntur-522 504.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of certiorari, or any other appropriate writ, order or direction, calling for the records pertaining to O.A. No.436 of 2003 dated 21.10.2003 as confirmed in M.A.No.765 of 2003 in R.A.SR.No.3621 of 2003 in O.A.No.436 of 2003, dated 5.1.2004 on the file of the Hon'ble Central Administrative Tribunal Hyderabad Bench, Hyderabad and quash the same as illegal, arbitrary, contrary to law and unconstitutional and declare the same as void abinitio, null and void and nonest in the eye of law.

Counsel for the Petitioner:MR.A.RAJASHEKAR REDDY (SC FOR CG)

Counsel for the Respondent : Mr.P.Venkateswarlu

The Court at the admission stage made the following :

ORDER (Per G.B,J)

This Writ Petition is filed assailing the orders passed by the Central Administrative Tribunal, Hyderabad (for short Tribunal) dated 21-10-2003 in O.A.No.436 of 2003 and also in M.A.No.765 of 2003 in R.A.SR.No.3621 of 2003, dated 5-01-2004.

2. The respondent approached the Tribunal in O.A.No.436 of 2003 seeking declaration that the action of the respondents in giving temporary status only to casual employees and excluding the category of contract/temporary employees as wholly illegal and consequently direct the appellants herein to consider the case of the respondent for temporary status based on the date of appointment and to regularize his services in the existing or future vacancy based on the said date of appointment. After due deliberations before the Tribunal, the said O.A. was disposed of with the following direction:

> "The respondents are directed to consider the case of the applicant for these two vacancies of Drivers on a preferential basis as per the substance of the ICAR Circular."

Thereafter the petitioners herein again filed a Review stating that they could not consider the case of the respondent for the

post as the same was meant for reserved category viz., Schedule Castes and O.B.C. The said review petition was also dismissed by an order dated 05-01-2004. Aggrieved by both the orders, the present Writ Petition has been filed.

3. The learned Standing Counsel appearing for the Central Government submits that the order of the Tribunal is illegal and contrary to law. The respondent cannot be considered in the vacancy reserved for O.B.C. and Schedule caste and therefore, the order of the Tribunal is liable to be set aside.

4. We have heard the learned counsel for the respondent also.

5. We are unable to appreciate the contentions raised by the learned Standing Counsel. The direction of the Tribunal in the above OA is specific to the effect that the respondents therein shall consider the case of the applicant and pass appropriate orders. If at all the employee is aggrieved, he will go for fresh O.A., but there is no scope for interfering with the order passed by the Tribunal. Under these circumstances, we find no merits in the contention raised by the learned Standing Counsel.

6. Accordingly, the Writ Petition is dismissed. No costs. However, the petitioners are directed to pass appropriate orders in accordance with the directions issued by the Tribunal, if not already passed, within a period of six weeks from the date of receipt of copy of this order.

G.BIKSHAPATHY

B.SESHASAYANA REDDY

Dated:12-07-2004

Hsd

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

2 C.D.copies